

Assessing and Mitigating Impacts: Approaches from Other States (Preliminary Findings)

presented to

The Advisory Group for CEQA Improvement
March 15, 2005

Reviewed Issue Areas

- ⌘ Inconsistency regarding what constitutes a "significant" effect
- ⌘ Poor integration of plan-level and project-specific reviews
- ⌘ Ambiguous treatment of cumulative effects
- ⌘ Reasonableness of alternatives analysis requirements
- ⌘ Categorical exemptions

Inconsistency regarding what constitutes a "significant" effect

Issue

Local authorities have used varying standards for determining the significance of environmental effects, sometimes making it difficult for project proponents to predict whether their proposals will trigger environmental review. Impact thresholds applied to similar projects can even vary within the same agency.

Approaches from Other States

- ⌘ Vermont, Florida, and Maine use thresholds based on the land area occupied by projects
- ⌘ Massachusetts spells out specific impacts that automatically lead to the requirement of an EIS
- ⌘ Minnesota ties quantitative thresholds to the project's context; i.e., fewer units lead to review in greenfield areas, more units in urban areas
- ⌘ New York specifies type of activity requiring review

Poor integration of plan-level and project-specific reviews

Issue

EIRs for specific projects often duplicate the analysis that municipalities conduct in the process of long-range planning

Approaches from Other States

New York accepts program statements from comprehensive plans in lieu of environmental impact statements.

In Hawaii, projects that are consistent with county-level comprehensive plans are exempt from environmental assessment unless they lie in areas that are considered environmentally sensitive

Washington strongly encourages municipalities to integrate environmental review and comprehensive planning

Ambiguous treatment of cumulative effects

Issue

CEQA regulations require EIRs to consider the long-term “cumulative” environmental impacts and “growth-inducing” effects of individual projects. Project proponents face considerable uncertainty when deciding what geographical ranges and time horizons to consider and the localized nature of CEQA review makes it difficult to address cumulative impacts.

Approaches from Other States

Washington and New York, the states with the next strongest regulations to California, do not require an EIR to consider proposed but unapproved developments or “reasonably anticipated future activities of a project or associated with the project”. Without planning processes clearly established through legislation, courts in other states appear reluctant to disseminate rulings that would implicitly require planning through the consideration of cumulative effects

Reasonableness of alternatives analysis requirements

Issue

An EIR must present alternatives to a proposed project but in practice, alternatives often consist of scaled-down versions of the project or off-site alternatives. The alternatives are often infeasible because the project proponent usually does not own the land where the alternatives are proposed.

Approaches from Other States

In New York, only EIRs for public projects need to consider off-site alternatives, and in Washington, private projects require off-site alternatives only if proponents have requested a change in zoning. Other states do not require analysis of off-site alternatives.

Categorical exemptions

Issue

California law currently exempts residential in-fill projects from CEQA review if they occupy up to four acres and include up to 100 housing units. The City of Oakland has approved several hundred units of downtown housing under this exemption. The state legislature is currently considering a proposal to expand the exemption to include projects of up to 10 acres and 300 units.

Approaches from Other States

In Washington, 2003 amendments to the State Environmental Policy Act allow counties and cities to create exemptions for residential and mixed-use in-fill projects. Exempt projects must be consistent with densities and intensities specified in a city or county's comprehensive plan, and the environmental assessment of the comprehensive plan must be complete.

For further information, contact:

Richard G. Little, AICP

Director

The Keston Institute for Infrastructure

University of Southern California

RGL 331D

Los Angeles, CA 90089

phone: (213) 740-4120

fax: (213) 740-6170

email: rglittle@usc.edu

<http://www.usc.edu/keston>

